

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JESSICA RAMSAY,	:	
Plaintiff	:	
	:	
v.	:	CIVIL ACTION NO. 19-2002
	:	
NATIONAL BOARD OF MEDICAL	:	
EXAMINERS,	:	
Defendant	:	

**DECLARATION OF JESSICA RAMSAY IN SUPPORT
OF MOTION FOR PRELIMINARY INJUNCTION**

I, Jessica Ramsay, declare as follows:

1. The facts in this Declaration are based on my personal knowledge.
2. I am 28 years old and reside in Kalamazoo, Michigan.
3. For more than 10 years, I have dreamed of and worked very hard toward attending medical school and becoming a physician. I am now a student at the Homer Stryker M.D. School of Medicine which is part of Western Michigan University in Kalamazoo, Michigan ("WMed"). I entered WMed with the first entering class in 2014, with an expected graduation date of 2018, and I have completed the first three years of the four year M.D. program. I was chosen by the members of my entering class for membership in the Upjohn Humanism Honor Society, an honor society made up of medical students who have been identified as possessing outstanding clinical and interpersonal skills. See www.gold-foundation.org/programs/ghhs/.¹

¹ The members of my class were not eligible for the Gold Humanism Honor Society ("GHHS"), which is a national organization, because we were the first WMed class. The GHHS suggested that WMed could create its own society for our class, using the same criteria, and this became the Upjohn Humanism Honor Society.

4. However, because of the problems with the examinations that are administered by defendant, the National Board of Medical Examiners (“NBME”), that are the subject of this litigation, I did not graduate with my class in 2018. The other members of my class have not only graduated, but have gone on to medical residency programs, which are the next stage of physician training. By contrast, I have been compelled to take a leave of absence. My potential graduation date has been delayed for 3 years. If I can eventually overcome the problems with NBME, and resume my studies at WMed, I still will have lost the opportunity to graduate with my fellow students from the class of 2018.

5. For my entire life, including primary and secondary school, college and medical school, I have had to struggle with the obstacle of very slow reading speed and problems with attention and distractibility.

6. These disabilities are a problem for me not only in taking timed and standardized written tests, like the tests involved in this proceeding, but also in everyday life.

7. The average person is able to scan documents, read and write, and process, recall and organize information efficiently, but I cannot. In order to do any of these things, I must spend much more time and energy every day than most people need to. Furthermore, the additional time and energy spent on these tasks takes away from the time, energy, and focus needed to manage other important life responsibilities like cooking, eating, cleaning, paying bills, running errands, doing laundry, sleeping, and self-care.

8. I have always struggled with flipping, merging, and tangling letters, characters, and words both when reading and writing. I also have trouble distinguishing between words and characters that have similar shapes – characters such as qbdp, 96, wunm, JL, 3E, 9y, 5sae, 4A, and words like united/untied, serves/verses/reverse/server/severe/reserve, quite/quiet, from/form,

reared/reread, and though/thought/through/trough/tough – so it takes me a long time to isolate and correctly identify them. Sometimes I am unable to tell them apart without help from others or use of supportive tools.

9. In order to read anything, especially technical material like the material on the USMLE Step 1 test, I must spend a lot of time and effort to untangle the words and decode each one, identifying their individual meanings. Then I must piece them together in the correct sequence, building them up to get the meaning of the text as a whole. This is completely different from the way that most people read. Most people read with “automaticity,” *i.e.*, with fast accurate word recognition. I cannot read in the way that most people read. Instead, I need to reread text multiple times before I can fully comprehend what I am reading. Usually, I also need to read the text aloud, or have it read to me by a person or computer program, to help me interpret the words within the context of the sentence, and then within the paragraph.

10. In addition to the problems with reading described above, I also have long suffered with distractibility, which reduces my ability to focus or maintain attention, especially for extended periods, and causes me to be very easily distracted by sounds, movement, and flashes of light, as well as my own thoughts and sensations, like hunger, restlessness, pain, and temperature. These distractions pull my focus away from my current thought or task.

11. In my early school years, my parents and teachers worked with me on a daily basis to help me with reading, spelling and writing. They did not pursue formal evaluation or accommodations for learning disabilities, attention problems or distractibility because I worked very hard every day to mask my mistakes, both at school and elsewhere. After using my energy to concentrate on these tasks, I was always mentally exhausted at the end of the day. The reality

was that I was spending a very abnormal and excessive amount of time and effort to perform or work around these functions every day.

12. In the Personal Statement that I submitted to NBME with my second application for testing accommodations, I described these problems with reading speed and distractibility in more detail, and a copy of the Personal Statement is attached hereto as Exhibit A and incorporated by reference.

13. Although I did not have formal accommodations for my problems with reading speed, attention and distractibility before college, I needed, and sometimes received, informal accommodations in order to be successful and pass my classes. For example, I remember a timed, multiple-choice test in 5th grade, on which we had to get at least 30 out of 60 questions right to pass. All but one other person finished early. I used all of the allotted time, and I was still the only person to answer less than 30 questions. I had only been able to get through 29 of them and was working on the 30th when time ran out. I went home crying because I felt stupid and slow. I told my mom that I knew how to do all the questions, but I just did not have enough time. Eventually, they made informal accommodations for me by grading the work I had shown for the 30th question, which was correct and allowed me to achieve the minimum passing score. Similar situations have occurred all throughout my schooling, even several times since I began receiving formal accommodations in college.

14. During my undergraduate studies at Ohio State University, the demands of school, work and life finally began outweighing my ability to self-accommodate, requiring more time and energy than I had. In addition, as the academics became more challenging, longer hours of studying and other self-accommodations were no longer enough to compensate for my slow reading speed and distractibility. I was having much more trouble focusing throughout the

day, and was losing track of things more frequently. I was even having trouble speaking – mixing the beginnings or ends of neighboring words, or just not being able to find the right words at all – which happens much more often when I am fatigued. For many of the tasks that I needed to do on a daily basis, I knew the steps needed to accomplish each task and that I was capable of doing each step, but I never had enough time to do all of them, even if I planned ahead.

15. In 2009, at the suggestion of a professor, I sought help from my primary care physician, Dr. Allen Smiy, who diagnosed me with Attention Deficit Disorder, inattentive type, for which he began medical management. At that time, I did not associate my restlessness and constant need to be moving with being hyperactive – I just thought I was active.

16. Dr. Smiy also commented about “possible dyslexia” but did not recommend further work-up because it would have been time-consuming and expensive, and would not have changed the treatment and accommodations that he recommended on the basis of his diagnosis of Attention Deficit Disorder. Dr. Smiy also said that, if I was not granted the accommodations I needed based on the diagnosis of ADD alone, he could refer me for further evaluation of dyslexia. As explained in the next paragraph, I did receive accommodations from Ohio State on the basis of Dr. Smiy’s report, and therefore did not pursue further evaluation at that time.

17. After I received Dr. Smiy’s diagnosis, I registered with Ohio State’s Office of Disability Services (ODS) and began receiving formal accommodations in 2010, which included 50% additional testing time and a distraction-reduced testing space. (I also received other accommodations such as the use of colored pencils, pens and highlighters, which are not available for computer-based tests like the USMLE Step examinations.)

18. Once I started receiving accommodations, I was able to perform better on my exams because I had more time to read, write, and work through questions. However, even with the extra time and reduced distractions, I still had to rush to try to finish the tests. On exams with essays or questions with lengthy prompts, which require a lot of writing or reading, I still ran out of time before I could finish. My grades for timed examinations still did not fully reflect my level of knowledge, even with 50% extended time (time-and-a-half).

19. For standardized exams that I took before medical school like the ACT for college admission, and the MCAT for medical school admission, I was able to answer many of the questions without reading the entire question.

20. For the ACT, the intrinsic nature of the test made it possible to answer many of the questions without reading the question prompt, which allowed me to get through enough of the questions to score well enough to get into college, though my score did not adequately reflect my knowledge or reasoning ability. Most of the questions required little reading in order to find the answers, and therefore, I was able to answer enough questions to achieve an acceptable score, even though I was not able to read all of the questions, and (due to the guessing penalty that is applied in scoring the ACT), I had to leave some questions unanswered.

21. I did not request accommodations for the MCAT because, at the time that I took the MCAT, scores were “flagged” if the student received disability accommodations, and many advisors, mentors and test prep instructors told me that identification as a person with disabilities would hurt my chances for admission. Subsequently, the practice of flagging MCAT scores was discontinued, but this was after I had already taken the exam.

22. For the MCAT, as for the ACT, many of the questions could be answered without reading and gathering information from the passages, so I knew that I should answer these

passage independent questions first, and then use any remaining time to try to read and answer as many as I could of the remaining questions that required more reading. Then, in the last minute of each section, I blindly selected answers for the questions I was not able to get to because, unlike the ACT, there was no guessing penalty, so I did not have to leave them blank. Again, being able to skip much of the reading made it possible for me to correctly answer enough questions to achieve an acceptable score, but not a score that adequately reflected my knowledge and reasoning skills.

23. When I began medical school in 2014, and requested accommodations, I was required by my school (WMed) to undergo a neuropsychology evaluation, for which the school recommended Charles Livingston, an M.A. psychologist working in the Kalamazoo, Michigan area where WMed is located. I submitted Mr. Livingston's report with my request for accommodations. Based on the results of Mr. Livingston's evaluation and his recommended accommodations, WMed approved accommodations including 100% extended testing time (double time) and testing in a private room as well as additional accommodations for paper-based tests.

24. Though these initial accommodations helped greatly on tests, I needed more accommodations to meet the increased curricular demands. I was unable to keep up with the required reading assignments. I was still taking the weekly computerized quizzes (called "individual Readiness Assurance Tests" or "iRATs") under standard conditions with the rest of my class; I was unable to read all 10 questions in the 15 minutes provided and had to select random answers for the remaining questions when the time was up. Due to these continued challenges caused by my slow reading speed, and problems with attention and distractibility, I requested that the existing accommodations including 100% additional testing time and a private

testing room also be extended to weekly quizzes (iRATs). (I also requested additional accommodations for reading assignments and general studying.) WMed approved these additional accommodations.

25. Throughout my time in medical school, I also had to adjust my requests, or make new ones, as I encountered new situations in the classroom and the clinic. For example, medical students are required to take “objective structured clinical examinations” (“OSCEs”) which are simulated clinical encounters in which a student interviews and assesses a standardized “patient” who is following a set script. The student then prepares a patient note, based on the simulated encounter. These OSCE’s are modeled after, and used as preparation for, the USMLE Step 2 CS (“Clinical Skills”) Exam, which I am required to pass in order to graduate.

26. During my 2nd year of medical school, I struggled to complete simple subjective/objective encounter notes for our OSCE assessments within the 10-minute limit, and so I was granted 50% additional time for the notewriting. As the year progressed and I and the other students gained more clinical knowledge, the prompts (patient scenarios and instructions for that encounter) that we had to read before entering the patient room became longer, and we were required to include more in our encounter notes as well. At this point, I was no longer able to type enough within the 15 minutes (1.5 times standard OSCE note-writing time) to pass my OSCE’s, and depending on the length of the prompt, sometimes I did not have enough encounter time left after reading the prompt to complete what the instructions asked for. For these reasons, I had to request that my note-writing time be increased from 15 to 20 minutes (1.5 time to double time), as well as 2 additional minutes at the beginning of the encounter to read the prompt before entering the patient room.

27. The USMLE exams are different from the standardized exams I took before medical school. For these exams, I must read the entire prompt for each of the questions in order to gather and analyze all of the information necessary to correctly decide on an answer. This requires far more reading than either the ACT or the MCAT did. I cannot use the methods that I used for the ACT or MCAT and avoid or minimize reading in order to get through enough questions to obtain an acceptable score. To have the same opportunity as the other students taking this exam to read and gather the necessary information from each prompt, and to be able to demonstrate my knowledge and reasoning ability, I need to read the complete prompt for each of the questions. To read and analyze the complete prompt for each question, I need the extended testing time accommodation that I am requesting.

28. When NBME rejected my request for accommodations in 2017, and I did attempt to take the Step 1 examination under standard conditions, I did not have enough time to read all of the questions and, in the last minute of each block, was forced to blindly select answer choices for about 30 to 35 percent of the questions. (Unlike the ACT, as referenced above in paragraph 20, the scoring of the USMLE examinations does not apply a penalty for wrong answers, and so I did not have to leave unread questions blank. However, random guessing is not the same as answering a question that I have time to read) Additionally, because I was rushed to get through as many questions as possible during the allowed time for each block, I did not have enough time to thoroughly decode, analyze and process many of the questions, or to organize my thoughts before having to select an answer.

29. The Step 2 CK examination includes prompts which are much longer and denser than the Step 1 examination. While I was able to read 65 to 70 percent of the questions on the

Step 1 examination, I can only read about 45 percent of the questions on timed practice tests for the Step 2 CK examination.

30. Double exam time – which I have received from my school, but not from NBME – gives me the opportunity to use the methods and supports that I need to effectively read through each question while compensating for effects of my learning disabilities. I need this time to ensure I have the opportunity to read, understand, and gather information from each question; to apply my knowledge and preparation to process the information and decide on an answer choice; and to correctly distinguish between answer choices so I can select the appropriate answer choice for my intended answer.

31. I have been hurt, and continue to be hurt, by the delay that I am experiencing because of NBME's refusal to allow me to have the extended testing time that I need. NBME's refusal is delaying my education, and jeopardizing my ability to begin my professional career as a physician. I have already spent nearly three years trying to obtain testing accommodations, and specifically extended testing time, from NBME.

32. My school requires that I take the Step 1 examination before beginning my final year of medical school. I began medical school in 2014, and therefore was scheduled to begin my fourth and final year in July 2017. To allow adequate time for NBME to consider my application, I first applied for accommodations in December 2016. NBME turned my application down in March 2017. My school advised me to attempt to take the examination without accommodations in order to try to stay on track for graduation with my class, and I did so in July 2017 but because of my slow reading speed, I was only able to read about 65 to 70 percent of the questions in each block. Although I felt comfortable with my ability to answer the

questions that I had time to read, I had to fill in random guesses for 30 to 35 percent of the questions, and I missed the passing score cutoff of 192.

33. After I failed to pass Step 1 without accommodations in July 2017, I consulted a neuropsychologist, Dr. Lewandowski, in order to obtain an additional evaluation of my need for accommodations for the USMLE Step examinations. I submitted a new application, including Dr. Lewandowski's report, in June 2018. NBME again denied my request for extended testing time in September 2018. I pursued the NBME "appeal" process, in which NBME itself reviews its own decision. In order to satisfy NBME guidelines, which require that a student seeking to "appeal" (or "request reconsideration") must submit "new substantive supporting documentation,"² I obtained an additional neuropsychological evaluation to address and respond to NBME's stated reasons for refusing to grant extended testing time. The new evaluation, by Dr. Robert Smith, was submitted with my NBME "appeal" on December 12, 2018. NBME rejected my appeal on February 14, 2019, and rejected my request for further reconsideration on March 27, 2019. With no other choice, I filed this action against NBME on May 8, 2019.

34. If NBME had granted my original request for accommodations, I believe that I could have passed the Step 1 examination, and also the additional step examinations – Step 2 CK (Clinical Knowledge) and Step 2 CS (Clinical Skills)³ that are required for graduation by WMed and other allopathic⁴ medical schools. Successful completion of Step 1, Step 2 CK and Step 2 CS is also required for participation in the National Residency Match Program

² Found on the Internet at <https://www.usmle.org/test-accommodations/guidelines.html>, "Reconsideration."

³ I may request additional accommodations for the Step 2 CS examination, similar to the accommodations that WMed has granted for OSCE examinations. *See* above, paragraphs 25-26.

⁴ Allopathic is the term for schools like WMed that grant the M.D. degree, as distinguished from osteopathic schools which grant the D.O. degree.

(“NRMP”). If I had received the accommodations that I need, and had passed the Step examinations on schedule, I could have graduated from WMed and matched into a residency program more than a year ago. Because of NBME’s continuing refusals to grant extended testing time, I had to file this lawsuit, and to request from WMed an extension of my leave of absence. A copy of WMed’s letter granting an additional leave of absence to March 2, 2002 is attached hereto as Exhibit B.

35. Because of this delay, I will probably not be able to graduate until, at the earliest, May 2021 which is three years later than my original graduation date. Further delay could jeopardize even this already very delayed schedule.

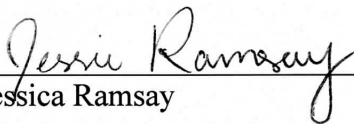
36. Preparation for and scheduling of USMLE Step examinations requires substantial lead time. The normal scheduling window is three months. Therefore, I need to have a decision about accommodations for the Step 1 examination at least three months prior to March 2, 2020.

37. I am also now in jeopardy of losing my future entirely. I had to take an extended leave of absence because of NBME’s withholding of necessary accommodations. That leave of absence has been extended several times, and now runs out in March 2020. If I am unable to take the step exam with the necessary accommodations before March 2, 2020, I will be dismissed from medical school. If I am dismissed from medical school because of the facts and circumstances alleged, despite being well-regarded by the faculty and chosen by my peers for the Upjohn Humanism Honor Society, the medical career, to which I have aspired for more than 10 years, would be over before it began. Moreover, even if I am able to take and pass Step 1 prior to the exhaustion of my leave of absence, my ability to get a residency position is now compromised and I will be forced to disclose my disability to explain why I had to take such an

extended leave of absence. Every day of additional delay by NBME results in further delay before I can achieve my goal of becoming a physician.

* * * *

I declare under penalty of perjury that the foregoing is true and correct.



Jessica Ramsay

Dated: 7/22/19

Exhibits to Declaration of Jessica Ramsay

- A Personal Statement submitted to National Board of Medical Examiners as part of request for testing accommodations
- B Letter from Peter Ziemkowski, M.D., Associate Dean for Student Affairs, Homer Stryker, M.D. School of Medicine of Western Michigan University, dated 6/24/2019, re extension of leave of absence

Exhibit A

**Personal Statement submitted to
National Board of Medical Examiners as part of
request for testing accommodations**

June 6, 2018

USMLE# 5-366-431-4

Jessica Ramsay

Personal Statement

I am submitting this Personal Statement to describe the functional impairments and symptoms I experience as a result of my learning disabilities, Attention Deficit/Hyperactivity Disorder, migraines, and residual symptoms from my deep vein thrombosis. These symptoms make it impossible for me to fully read and answer all of the questions on an equal basis with non-disabled students under the standard testing conditions. The accommodations that I am requesting are:

- 100% additional exam time (double time)
- Extra break time
- a private, distraction-reduced testing room

* * *

There are many tasks in everyday life that require scanning, reading, writing, information processing, recall, and organization, which the average person does effectively and efficiently. Because of my disabilities, I am unable to do these important tasks with normal effectivity or efficiency, or sometimes even at all. These disabilities also interfere with my ability to learn, remember, recall, and express information efficiently and effectively. In order to perform any of these functions, I must spend much more time and energy every day than most people need to. Furthermore, the additional time and energy spent on these tasks takes away from the time, energy, and focus needed to manage other important life responsibilities like cooking, eating, cleaning, paying bills, running errands, doing laundry, sleeping, and self-care.

In addition, the methods I have developed over time in order to be able to read, study and manage my disabilities are only effective if I have an appropriate space and the necessary time. Let me explain.

- I have always struggled with flipping, merging, and tangling letters, characters, and words both when reading and writing. I also have trouble distinguishing between words and characters that have similar shapes – characters such as qbdp, 96, wurm, JL, 3E, gy, ssae, 4A, and words like united/untied, serves/verses/reverse/server/severe/reserve, quite/quiet, from/form, reared/reread, and though/thought/through/trough/tough – so it takes me a long time to isolate and correctly identify them. Sometimes I am unable to tell them apart without help from others or use of supportive tools. These tasks are progressively more difficult with stylized fonts, handwriting, and cursive – *nmuuuennu, 3999, delbhh* – which I usually need someone else to read to me because I cannot read it on my own. This interferes with my ability to do many common, everyday tasks like reading handwritten instructions, phone numbers, reminders, or feedback on an assignment, and sometimes cannot even read something I wrote myself, like reminders or class notes.
- In order to read anything, especially technical material like the material on the USMLE Step 1 test, I must spend a lot of time and effort to untangle the words and decode each one, identifying their individual meanings. Then I must piece them together in the correct sequence, building them up to get the meaning of the text as a whole. This process requires me to reread text multiple times before I can fully comprehend what I am reading. Usually, I also need to read the text aloud, or have it read to me by a person or computer program, to help me

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interpret the words within the context of the sentence, and then within the paragraph. Hearing the words aloud also helps me to avoid making as many mistakes overall because, when I hear something that sounds out of place, I can backtrack and try again. Though this process is very slow and tedious, it makes it possible for me to read with adequate comprehension. Additionally, there are times when I also need to physically act out or demonstrate what I am reading so that I can make sense of the information. This technique is helpful for working through information but requires adequate time and an appropriate space for me to be able to physically move around in a way that is not possible in a shared testing room without disturbing other examinees.

- When I need to read but do not have adequate time or support to properly untangle and work through the words or process the information, I miss important details, or even large chunks of information, and misinterpret the message. This leads to many, and often crucial, misunderstandings and communication errors that can have negative impacts on the personal, social, academic and professional aspects of my life, the severity of each varying depending on the situation. For example, calling someone Ashley when their name tag says Ainsley can appear careless, or even rude, leading to a bad first impression, or even loss of a potential job offer. Misreading instructions and messages, subsequently causing me to pass along an incorrect message or to unintentionally fail to follow directions, has gotten me in trouble at home, with friends, and sometimes even at work. In restaurants, it takes me a long time to read the menu, so I hold everyone up when they are ready to order. When movies and shows have subtitles, they are not on the screen long enough for me to be able to read them, so I either need someone to read the captions to me or I have to pause the movie with every line so that I can give myself adequate time to read each line, which really annoys other viewers. When I do not have someone to read the captions to me, or the option to pause so I can read, I completely miss what is going on.
- When I need to read for complete understanding and learning, I mark up the text by drawing and writing directly on the page with colored pens, pencils, and highlighters. When I am not able to use colors to draw and write directly on the exam, such as for computerized exams including USMLE Step 1, I must rely on a combination of other methods, though this is generally less effective. The following are some examples of these methods:
 - Drawing and writing on scrap paper, which is less effective because I have to go back and forth between the text and scrap paper, causing me to more frequently lose my place and make mistakes. It is also much less efficient because it takes much more time to go back and forth between text and scrap paper than it does to mark directly on the text, and I require more time to check for and correct my mistakes;
 - Reading and thinking aloud which allows me to hear the words as I read to better comprehend and process the information and, importantly, to better recognize when I have made sequencing errors. This method requires a private environment so as not to interrupt other test-takers when I am talking;
 - Physically acting out or demonstrating what I am reading. This helps me to make sense of the information I am reading but requires adequate time to work through the information. Without a private room in which I can read aloud and move about the room, I will be a hindrance and distraction to other test takers.

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My learning disabilities also impair my ability to effectively and efficiently express information through writing due to the switching, merging, and tangling of letters, characters, and words, similar to that which I experience while reading. Because this is a request for accommodations for Step 1, I will not describe my difficulty with writing in as much detail, but it will be relevant when I apply for accommodations for Step 2 CS.

Because reading and writing are such tedious and draining processes for me, I avoid both as much as possible. I was able to do this strategically for some prior standardized tests like the ACT and MCAT because the tests were designed so that many of the questions could be answered without reading the whole question. For the ACT, I was not able to read all of the questions and could not accurately demonstrate my knowledge. Additionally, due to the guessing penalty, I had to leave the questions I was not able to read unanswered. However, because most of the questions required little reading to find the answers, I was able to answer enough questions to achieve an acceptable score. Likewise, for the MCAT, many of the questions could be answered without reading and gathering information from the passages, so I knew to answer passage-independent questions first, and then used any time left to try to read the passages with the most unanswered questions remaining. Being able to skip much of the reading made it possible for me to correctly answer enough questions to achieve an acceptable score.

The NBME and USMLE exams are different from the standardized exams I took before medical school. For these exams, I must read the entire prompt for each of the questions in order to gather all of the information necessary to correctly decide on an answer. This requires far more reading than either the ACT or the MCAT did. To have the same opportunity as the other students taking this exam to read and gather the necessary information from each prompt, I need the accommodations that I am requesting.

In other non-testing situations, I can use videos, pictures, diagrams, interactive models, physical demonstrations, dictation, audio books, conversations, context clues, lectures, and many other sources in addition to, or even in place of, reading and writing. These sources format information in a way that I can understand, process, remember, and use more effectively and efficiently, making it easier for me to process, learn, study, communicate, and demonstrate information. When I am required to read or write without the option or opportunity to use these other formats, I require much more time and support than most people, and I am not able to understand, learn, study, memorize, or communicate information, nor demonstrate my knowledge and competency as effectively.

* * *

In addition to ADHD, learning disabilities, and migraines, I also had a deep vein thrombosis (DVT) the full length of my leg in 2016 and was later diagnosed with a clotting disorder (See letter from Jennifer Houtman, M.D.). The DVT damaged the circulation in my legs, causing post-thrombotic syndrome, meaning that sitting or standing still for long periods causes my legs to swell and become painful, which adds to my inability to focus. During my Step 1 attempt, having to sit still for long periods without a private environment to briefly move or walk around as necessary to maintain circulation during the exam blocks caused my leg to swell and become painful, further distracting me from the exam. During the breaks, I did not have enough time to sufficiently walk around to reduce the swelling and pain that had built up during the exam. Because of my clotting disorder and DVT, I must take frequent breaks throughout the day, and briefly during the exam blocks, to move and walk around in order to maintain adequate circulation in my legs, reduce swelling and pain, and decrease the risk of forming another DVT as a result of my clotting disorder.

ADHD inhibits my ability to focus or maintain attention, especially for extended periods, and causes me to be very easily distracted by sounds, movement, and flashes of light, as well as my own thoughts and sensations, like hunger, restlessness, pain, and temperature. These distractions pull my focus away from my current

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thought or task. As a result, ADHD impairs my ability to do anything that requires sustained mental effort, such as thinking, maintaining conversation, remembering obligations and assignments, getting organized, staying on track, and completing tasks and projects.

I am unable to keep track of things because I set them down and forget where I put them, which is especially problematic when I am outside my home, and with important things like my, wallet, keys, assignments, phone, and legal documents. In addition to distractibility and inattention, ADHD also causes me to be impulsive, which makes it difficult to wait my turn, especially in conversations. As a result, I unintentionally interrupt others, or blurt out my thoughts before fully thinking them through or appropriately filtering them for the situation.

The restlessness, distractibility, and inability to focus caused by my ADHD exacerbate the effects of my learning disabilities, further impairing my ability to scan, read, write, learn and process information.

My inattention, distractibility, and impulsivity make it very difficult to focus on just one idea at a time, causing me to jump quickly from one thought to another, which makes it difficult to maintain my train of thought. This frequently causes me to forget things I need to do, forget steps in a process, forget what someone just told me, and forget what I am saying when I am talking. My inattention, distractibility, and impulsivity also cause me to be unable to organize my thoughts without the adequate time or the tools I need. This is especially true for things like telling stories or writing essays and clinical notes, which must be logically presented to others.

For exams, getting lost in my thought process causes me to lose track of what the question is really asking so that I end up working only part way to or even past the answer the question was actually asking for. Many times, on multiple choice exams, the answer that I come up with is often one of the incorrect options. Without adequate time to reread the question and double check that the answer I select fits what the question is really asking, I am unable to effectively answer questions even when I correctly understand the material.

Also due to my ADHD, I constantly need to be moving around or doing something. I have always had an extremely difficult time sitting still, especially for extended periods. When I am expected or required to sit for prolonged periods, I become very restless and start shifting around in my seat, fidgeting, and doodling on my papers, which can be disruptive to others around me and has gotten me in trouble in school. Not being able to sit still for extended periods interferes with my ability to study and work on assignments, maintain professional behavior at work, and complete tasks or even watch shows to relax at home. Being able to take frequent breaks with adequate time to rest my mind while stretching and walking around helps me manage my restlessness and recharge so I have the energy focus and try to sit still when I get back to the task at hand.

I also need frequent breaks with adequate time to give my mind a rest from straining to focus and read. If I do not have adequate opportunities or time to do this, I become overly fatigued, which exacerbates the symptoms I experience related to my learning disorders and ADHD. Taking frequent breaks to give my mind a chance to rest allows me to recover before the next block so that I have the energy I need to be able to focus, read, process and remember information, and demonstrate my knowledge.

Additional break time will also help me with avoiding migraine symptoms. When I get migraines, the associated blind spots affect my ability to see and therefore to read. The headache itself, along with the associated nausea and hypersensitivity to light, sound, and temperature make it impossible for me to focus, which interferes with my ability to read, think, process, and answer questions. Because my migraines are triggered by excessive fatigue from trying to focus, read, and process the questions, having frequent breaks with adequate time to recuperate between blocks reduces the likelihood that I will get a migraine during the exam.

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During my first Step 1 attempt, the standard break time allowed did not provide enough time after basic needs had been addressed for my mind to adequately recover between blocks. As a result, the effort needed to focus on the exam and suppress urges to move over the course of the exam cause me to become fatigued, triggering a migraine. I began experiencing aura symptoms during the 6th block, disrupting my focus and interfering with my ability see, read, and think, and had to wait until the block was over to use the remaining break time to retrieve and take my medications. Having to wait almost a full hour after experiencing aura symptoms before I could take the abortive medications, the aura developed into a full migraine during the 7th block, which further impaired my ability to concentrate, see, read, and think.

If I start experiencing migraine aura symptoms, I need to take medications right away to avoid getting a full migraine. The process of retrieving and taking medications during my breaks takes away from the time I need to manage my restlessness and get re-energized and refocused before the next block (See letter from Jennifer Houtman, M.D.).

Additionally, during breaks, I also need adequate time to stretch, move, and walk around to reduce the restlessness and leg swelling and pain I experience during the exam. Having adequate time to address these symptoms helps me get refocused before starting next block.

The standard exam space is a problem in many ways. When in the room, examinees are required to remain seated and to refrain from activities that might distract other test-takers, such as moving, tapping, or talking. In order to abide by these rules and respect the other examinees in the shared testing space, I cannot use the supportive tools and methods I require to effectively read or interpret the questions because I am not allowed to read or think aloud or briefly step away from my computer in order to make sense of question.

Sharing the space with other test-takers also significantly increases the distractions I experience during my exam, further impairing my ability to focus. If I cannot focus, I cannot read, process or recall information, nor organize my thoughts effectively. As expected, this is what I experienced during my first Step 1 attempt. Additionally, throughout several blocks, many people in the room were required to type for their exam and were typing so furiously that my desk was shaking, which completely inhibited me from being able to focus on my exam or read the questions. I could not understand the words on the screen and I could not think through anything. The effort I spent trying to focus and read during this time caused me to fatigue even more, contributing to the migraine I developed in the last two blocks.

Also, to avoid disrupting other test-takers in the standard shared testing space, I must continuously suppress the urges to get up, move around, and fidget, which greatly increases the restlessness, stress, and fatigue I experience during the exam. Additionally, while sharing a testing space, I cannot adequately manage the restlessness, swelling or pain caused by sitting for long periods because I am not allowed to briefly stand up to move, stretch, or walk around.

Additional break time, and a private room, will be helpful, but not enough, unless I also have extended testing time. As I have explained, I am easily distractible and have learning difficulties that cause me to be a very slow reader, with slow processing speed and inefficient thinking, compared to the average person. I require additional time and tools to be able to untangle and process words, effectively interpret and understand what I am reading, to organize my thoughts and information, and get back on track after distractions.

During my first Step 1 attempt, like my previous unaccommodated testing experiences, I did not have enough time to read all of the questions and, in the last minute of each block, was forced to blindly select answer choices for a significant number of un-read questions. Additionally, because I was rushed to get through as many questions as possible during the allowed time for each block, I did not have enough time to thoroughly

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analyze and process many of the questions, or to organize my thoughts before having to select an answer. Since I cannot mark directly on the exam, I more frequently lose my place, misinterpret the question, and forget or misunderstand what the question is really asking. For example, If I misread a question as 'which thing is expected to DEcrease due to a disease process,' when the question is actually asking 'which thing is expected to INcrease,' I will get the question wrong even though I understand how the disease process works. To be able to effectively read and understand the questions, I need to have sufficient time to untangle and process the words, to use supportive methods, and to re-read questions. When I am reading and thinking aloud, I need to have sufficient time and a private environment so that I am not a disruption and hindrance to other test-takers.

Double exam time gives me the opportunity to use the methods and supports I require to effectively read through each question while compensating for effects of my learning disabilities. I need this time to ensure I have the opportunity to read, understand, and gather information from each question; to apply my knowledge and preparation to process the information and decide on an answer choice; and to distinguish between answer choices so I can select the appropriate answer choice for my intended answer.

Double exam time also gives me adequate time to get refocused after getting distracted and to manage the additional symptoms caused by ADHD and post-thrombotic syndrome. Without this time, these symptoms interfere with my ability to focus, and taking time to appropriately address them takes time away from the time I need to read and process the questions.

* * *

My learning disabilities, ADHD and migraines affect all aspects of my life, and I have been struggling with them since I was little. Since beginning school, I have always had a lot of trouble sitting still and focusing, which interferes with my ability to pay attention in class, study, and complete homework, class assignments, papers, and exams, especially under timed conditions. My distractibility, lack of focus, and difficulty with letter reversals and tangled words causes me to make a lot of mistakes that would have been avoidable for most people. This has always been extremely frustrating because I would understand the material and would put a lot of effort into my work but would still miss tons of points for "careless" mistakes. Additionally, it has always taken me significantly more time and effort than everyone else to read, write, and process the information, so that I rarely have time or energy for anything else. In time-limited situations, like exams, I almost never have the opportunity to completely and accurately demonstrate my knowledge or hard work because I do not have enough time or access to the supports I need to adequately read, process, and answer each of the questions.

Growing up, my friends would always get mad at me for not being able to hang out in the evenings because they did not believe that I was still doing homework when they had already been done for hours. They always seemed to have so much free time when I was constantly up past midnight trying to finish my homework. In middle and high school, my mom would get frustrated when I was trying to write a paper because it would take me FOREVER and we only had one computer in the house, and she would always have to help me proof-read my work, many times at three or four in the morning. Because I am such a slow reader, whenever I had to read something online, it would take me so long that I would get yelled at for tying up the phone line (we had dial-up service at that time).

Prior to college, my parents and teachers never pursued evaluation for learning disabilities or ADHD because I worked hard and was able to mask my mistakes at school. After using my energy to concentrate on these tasks, I was always mentally exhausted at the end of the day. At home, having two brothers who have autism and multiple other special needs created an inaccurate comparative illusion that I could pay attention, sit still,

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read, process, study, organize, and write normally. But the reality was that I was spending a very abnormal and excessive amount of time and effort to perform or work around these functions every day.

In 2nd grade, my teacher did notice that I still had trouble with letter and number “reversals” and distinguishing between similar-appearing characters and words when reading and writing. She began providing informal accommodations which included putting me at an isolated desk in a cubicle in the corner of the room to help reduce distractions, gave me extra time to complete classwork, and provided an alphabet chart to help me keep my letters straight for reading, writing, and spelling assignments.

After I was trialed on glasses, which did not help, I was referred to a therapeutic optometrist, Dr. Mary Alice Tanguay, to be evaluated for my “reversals.” She identified my “substantial deficits in the areas of visual-spatial relationships and visual discrimination.” In 1998, Dr. Tanguay provided visual perceptual skills training. This training did not eliminate my difficulty with character reversals, tangling, identification or discrimination, nor with spelling or reading speed. The training only helped me to develop some skills that I still use to work around the effects caused by my now formally diagnosed learning disabilities, which accounts for the improvements in the measured visual perceptual skills Dr. Tanguay mentions in her 2000 summary letter. Importantly, Dr. Tanguay also noted that even with these improved skills, I would likely always be a slow reader. Other than this visual testing, I was not evaluated for learning disabilities until 2009, and so did not receive any other formal aid or accommodation.

The effort required for me to focus and to suppress impulses so that I could sit still, pay attention in class, and avoid interrupting people has caused me to get frequent headaches since I started going to school. In third grade, when reading and writing became more prevalent, the added effort from trying to read and write for prolonged periods in addition to concentrating and sitting still started causing me to have daily migraines. Because the associated blind spots, nausea, and hypersensitivity to light, sound and temperature inhibited my ability to participate in school, I was given prophylactic treatment for about a year until the frequency of migraines decreased. When I started medical school, the increased time and effort required for me to meet expectations and complete requirements caused me to again have daily migraines requiring prophylactic treatment.

Throughout my academic career, I have required informal accommodations in order to complete and pass assignments and exams so that I could advance through school. Timed tests have been my downfall in all of my classes, because I do not have time to read and process the questions, or accurately demonstrate my knowledge and preparation, which makes me look unprepared and feel incredibly stupid. I distinctly remember a timed, multiple-choice test in 5th grade, on which we had to get at least 30 out of 60 questions right. All but one other person finished early. I was the only person to answer less than 30 questions. I had only been able to get through 29 of them and was working on the 30th when time ran out. I went home crying because I felt stupid and slow. I told my mom that I *knew* how to do all the questions, but I just did not have enough *time*. Eventually, they made informal accommodations for me by grading the work I had shown for the 30th question, which was correct and allowed me to achieve the minimum passing score. Similar situations have occurred all throughout my schooling, even several times since I began receiving formal accommodations in college.

My learning disabilities have caused me to struggle with words, making me a slow reader and writer. This is especially problematic in time-limited situations. Since the beginning of my academic career, I have almost never been able to finish assigned readings for any class by the time they were due, even when I would stay up til 3 or 4 in the morning trying to finish. If I wasn't up late trying to read, I was up late trying to write an essay. Many times, I had to pull several all-nighters in a row to get a paper done in time. For *anything* written, not just exams or papers, the process of writing is pure agony for me. Even though I know I can turn out a

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decent final product, the struggle to get there – keeping track of and organizing my thoughts, translating them into words, finding the *right* words to convey the intended meaning, trying to get it all typed out before I forget how I worded it, and then working to get the jumbled mess of words on the paper into a logical, cohesive order, all while on constant lookout for dyslexic errors unnoticed by spell-check – is extremely frustrating and draining, and many times triggers migraines. For these reasons, I have always loathed reading and writing; they are agonizing battles of trying to decipher words and express and organize thoughts on a page, so I avoid doing either when possible.

* * *

During my undergraduate studies at Ohio State University, the demands of school, work and life finally began outweighing my ability to self-accommodate, requiring more time and energy than I had. I was having even more trouble focusing throughout the day. I would repeatedly misplace things and lose track of assignments. I was no longer able to catch and correct the numerous errors I made – like circling “b” instead of “d”; missing the crucial “**not**” or “**least** likely” and ending up with the exact opposite answer; or altogether misunderstanding a question because I mixed up some of the words. I was even having trouble speaking, mixing the beginnings or ends of neighboring words, or just not being able to find the right words at all, which happens much more often when I am fatigued. For many of the tasks, I knew the steps needed to accomplish each task and that I was capable of doing each step, but never had enough time to do them, even if I planned ahead. Despite making a valiant effort, I could not organize everything going on and would often miss a crucial step. It took so much time to do these things that I didn’t have any time left to spend on other important tasks, like paying bills, cooking, cleaning, or activities to maintain my physical, emotional and social well-being.

In 2009, at the suggestion of a professor, I sought help from my primary care physician, Dr. Allen Smiy, who diagnosed me with ADD, inattentive type, for which he began medical management. Before this, I did not associate my restlessness and constant need to be moving with being **hyperactive** – I just thought I was **active**. Dr. Smiy also clinically diagnosed me with dyslexia but did not recommend further work-up because it would not have changed the treatment.

A few months later, I registered with OSU’s Office of Disability Services (ODS) and began receiving formal accommodations in 2010, which included the following:

- Priority class scheduling
- Access to an assigned ODS advisor
- 50% additional testing time, a distraction-reduced testing space, and ear plugs for all quizzes and tests
- Any supportive materials that were recommended or approved by my professors, such as extra scrap paper, colored pencils, highlighters, chemistry model kit, or a note sheet.

Once I started receiving accommodations, I was able to perform better on my exams because I had more time to read, write, and work through questions. Though, even with the extra time and reduced distractions, I still had to rush to try to finish the tests. On exams with essays or questions with lengthy prompts, which require a lot of writing and reading, I still ran out of time before I could finish.

In medical school, I received more accommodations to meet the increased curricular demands. Most notably, I was granted 100% additional testing time, unlimited free printing, and Kurzweil 3000 text-to-speech software.

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I have had to adjust my requests, or make new ones, as I've encountered new situations in the classroom and the clinic. For example, during my 2nd year, I struggled to complete simple subjective/objective encounter notes for our OSCE assessments within the 10-minute limit, so was granted 50% additional time for the note-writing. When we started doing Step 2 CS-style encounters and notes for our clerkship OSCEs, I struggled to complete the added writing requirements in 15 minutes, so was granted 20 minutes, with an additional 2 minutes at the beginning of the encounter so that I had enough time to read the encounter prompt and instructions.

The effects that ADHD and learning disabilities have on my life are most quantifiable when assessing my academic performance, but they do not just affect school; for me, they are a 24/7 thing. Growing up, I constantly got in trouble for "being lazy" or "ignoring" directions – failing to do simple things like hanging my jacket in the closet rather than on the back of a kitchen chair, pushing my chair in when I got up from the table, making my bed, or putting things completely away – because no matter how many times my mom asked or what I tried to make myself remember, I always got distracted halfway through, forgot what I was doing and moved on to something else.

Since being diagnosed in 2009, I have gotten better at recognizing my hyperactive and inattentive trend, which has expanded and become more apparent as I have taken on more responsibility as an adult and medical student. I have learned the hard way that it is necessary for me to spend more effort to create reminders, backup reminders, and backup-backup reminders to avoid the negative domino-effects from making repetitive and perpetual "careless" mistakes, such as: forgetting appointments, forgetting to bring things that I need (like my wallet, phone, or paperwork), and losing track of time. However, even with the extra efforts to manage these effects, they are still apparent. For example, I still struggle with impulsively blurting things out without thinking, sometimes interrupting or offending others, and must actively try not to. I still have difficulty getting and staying organized, which is obvious with my cluttered apartment. I still mis-schedule and forget social, work, and academic obligations. I start tasks and projects, get distracted, and leave them unfinished. For example, I frequently forget that I started laundry and will then leave wet clothes in the washer for days before realizing it.

Already struggling to manage my life and having to surrender *much* more time and effort to studying and completing assignments, the learning disabilities intrinsically add a disproportionate number of hoops for me to jump through, such as:

- Remembering to request a new prescription every 30 days so that I can fill it before I run out.
- Taking off from school so that I can have medication checks every three to six months.
- Requesting academic accommodations, which is never a simple process – I have to track down old documentation and get new evaluations, and torture myself with writing support for each request.
- Keeping track of documentation and paying bills for each of these extra things.

These things may seem simple, but the pure nature of the disabilities I struggle with makes managing just one of these tasks, not to mention ALL of them, more difficult and time-consuming than for the average person. Every minute I spend keeping my disability affairs in order is time taken away from family, friends, recreational activities, self-maintenance, sleep and studying.

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For me, managing my life is like having a large bag of balls dropped from the ceiling, all at once, and being expected to not let a single one hit the ground. It is impossible without help. Finally being diagnosed and receiving treatment was like being given a shopping cart to catch more balls in, and receiving academic accommodations, a second shopping cart. Sometimes my friends and family help out – each catching a few more – by reminding me about upcoming deadlines and being patient and understanding when I jump from one thought to the next without finishing the previous one, or when I have to ask what we were just talking about after losing track mid-sentence.

I wish I did not need more time or accommodations, just like I wish I did not have to sacrifice the things I enjoy to make time for things I dread, but I do. In the context of the USMLE Step exams, without appropriate accommodations, I will not have the opportunity to get through as many questions or as much content as everyone else taking the tests, and I will not be able to accurately demonstrate all that I have learned thus far.

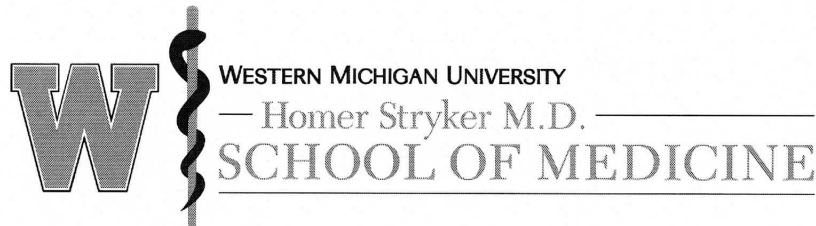
Sincerely,

A handwritten signature in black ink that reads "Jessica Ramsay". The signature is written in a cursive, flowing style.

Jessica Ramsay, 06/06/18

Exhibit B

**Letter from Peter Ziemkowski, M.D., Associate Dean
for Student Affairs, Homer Stryker, M.D. School of
Medicine of Western Michigan University, dated
6/24/2019, re extension of leave of absence**



June 24, 2019

By email to jessica.ramsay@med.wmich.edu and by USPS first class mail

Jessica Ramsay
jessica.ramsay@med.wmich.edu
6862 Tall Oaks Dr, Apt 3B
Kalamazoo, MI 49009

Lawrence D. Berger
19 Chestnut St
Haddonfield, NJ 08033

Dear Jessie,

I am in receipt of your request to again extend your leave of absence in order to pursue further accommodations from the NBME. Your original leave of one year duration, August 28, 2017 to August 29, 2018, was offered to allow you to retake USMLE Step 1. It was subsequently extended for up to a year, ending August 29, 2019, with the expectation that you would resolve your issues with the NBME and retake Step 1. Without an end date stated your current request represents an indefinite leave of absence, which is neither allowable under WMed policies, nor reasonable. I cannot extend your leave of absence indefinitely.

I am not able to further extend your Leave of Absence under the current expectations beyond August 29, 2019. As an alternative and in order to support your preparation, I can offer to extend your leave for six months, until March 2, 2020, with the expectation that you will sit for the USMLE Step 1 exam in a manner that allows you to return to the WMed curriculum by that date.

If you are unable to return to the WMed curriculum by March 2, 2020, under the policies you would be dismissed from medical school. Up until that date, you may voluntarily withdraw from WMed. In either case you would be eligible to apply for readmission at the time you are prepared to take USMLE Step 1. (You must be admitted to medical school to be eligible to schedule and sit for USMLE Step 1.)

As I have stated before, I recognize your hard work through all parts of the WMed curriculum. I especially recognize the clinical excellence leading to your peers identifying you as a member of

Office of Student Affairs
1000 Oakland Drive Kalamazoo, MI 49008-8010
PHONE 269.337.6111 WEB med.wmich.edu

Exhibit B

the WMed chapter of our Humanism Honor Society. I anticipate that upon achieving a passing score on USMLE Step 1, you will demonstrate the same clinical work ethic to complete your education. I appreciate your willingness to work with WMed faculty and staff through this process, and I look forward to supporting your career goals upon your return as a WMed student.

If you have further questions or concerns, please contact me at (269) 337-6111.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Ziemkowski MD".

Peter Ziemkowski, MD
Associate Dean for Student Affairs

Cc: Michael Busha, MD, MBA
David Riddle, PhD
Student file